

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VICTOR LLOYD MITHCELL	:	CIVIL ACTION NO. 1:CV-11-1998
	:	
Plaintiff	:	(Chief Judge Kane)
	:	(Magistrate Judge Blewitt)
v.	:	
	:	
EDWARD V. GRYNKEWICZ, III, et al.	:	
	:	
Defendants	:	

ORDER

Before the court in the captioned action is a January 31, 2012 report of the magistrate judge. No timely objections have been filed.

Accordingly, upon review of the record and the applicable law, **IT IS HEREBY ORDERED THAT:**

- 1) The Court adopts the Report and Recommendation of Magistrate Judge Blewitt.
- 2) Defendants' Motion for a Stay (Doc. No. 22) and their alternative request for relief is dismissed without prejudice since they are barred by *Heck*. Plaintiff's denial of medical care claim under the Fourteenth Amendment Due Process Clause and his Fourth Amendment excessive force claim against Defendants is allowed to proceed.
- 3) The case is remanded to Magistrate Judge Blewitt for further proceedings.

s/ Yvette Kane
YVETTE KANE
Chief Judge
United States District Court

Dated: February 21, 2012